

**ZONING BOARD OF ADJUSTMENT – BOROUGH OF DEMAREST**

**MINUTES**

**REGULAR MEETING – December 20, 2022**

Chair Dorothy Hayden called the meeting to order at 7:40pm and made the following announcement: The notice requirements of the Open Public Meetings Act of the State of New Jersey have been satisfied by the inclusion of the date, time, and place of this regular meeting in the annual schedule and notice of regular meetings of this Board. Such annual schedule and notice of regular meetings are posted at Borough Hall, were mailed to the Star Ledger and The Record, and have been filed with the Borough Clerk of Demarest on January 28, 2021.

Join Zoom Meeting

<https://us02web.zoom.us/j/7318183076?pwd=cGY3R3JOQnlmSGE1V0pQMkp1NG9RZz09>

Meeting ID: 731 818 3076  
Passcode: 271918

1. Roll Call
2. Flag Salute
3. Matters to Address
4. Administrative Matters

<b>BOARD ROLL CALL:</b>	<b>PRESENT</b>	<b>ABSENT</b>
Mr. Woods, Vice-Chair	X	
Mr. Davis		X
Mr. Corrado		X
Mr. McLain	X	
Mr. Park	X	
Mr. Press	X	
Ms. Hayden, Chair	X	
Alternate #1 Mr. Adelman	X	
Alternate # 2 TBC		
<b>Present:</b>		
Teresa Ferrentino, Board Secretary	X	
Mark Madaio, Board Attorney	X	
Colliers, Board Engineer -Nick Chelius	X	

**Variance Application #826-22**

**Applicant Name: 6 Van Horn LLC**

6 Van Horn  
Block #4, x Lot #3  
Zone D

**Application submitted: September 19, 2022**

**Hearing Date(s):** N/A

**Relief Sought:** N.J.S.A. §40:55D-70(c) and Chapter 175 §175-27 accessory structures (pool, pool equipment, patio) in front/side yard, rear yard setback

<b>GENERAL ZONING Zone D</b>	<b>REQUIRED/ALLOWED</b>	<b>EXISTING</b>	<b>PROPOSED</b>
Lot Area	10,000 sf.	13,319 sf.	13,319 sf.
Frontage – Lenox	100 ft.	70.20 ft.	70.20 ft.
Frontage – Van Horn	100 ft.	189.49 ft.	189.49 ft.
Min. Front Yard (Lenox Ave)	25 ft.	25.7 ft.	25.1 ft.
Min Front Yard ( Van Horn)	25 ft.	25.1 ft.	25 ft.
<b>Min Side Yard (Lot)*(rear yard- east side property line)</b>	<b>10 ft.</b>	<b>13.5 ft.</b>	<b>10.1 ft.</b>
Min. Rear Yard	30 ft.	124.4 ft.	81.9 ft.
Bldg. Height	30 ft.	25 ft.	29.4 ft.
Max. Livable Floor Area (FAR)	30%	--	3458 sf. /26%
Building Coverage	20%	1393 sf. / 10.5%	2650 sf. / 19.9%
Maximum % Improved coverage: principal residence, vehicle access, parking	25%	1694 sf. /12.7%	3238 sf. /24.3%
Total Improved Lot Coverage	30%	1789 sf.	3996 sf. /30%

<b>ACCESSORY STRUCTURE (POOL)*</b>	<b>REQUIRED/ALLOWED</b>	<b>EXISTING</b>	<b>PROPOSED</b>
Min. Accessory side setback - lot	10 ft.	N/A	10 ft.
Min. Accessory side setback - street	25 ft.	N/A	25 ft.
Min. Accessory rear setback	10 ft.	N/A	

**\*VARIANCE NEEDED**

**NO INFORMATION PROVIDED ON POOL FENCING**

**Chair Hayden** announced that the application is for 6 Van Horn, represented by **Mr. Richard Abrahamsen, Applicant attorney.**

**Mr. Abrahamsen, Applicant attorney** stated for the record that he represents the applicants for 6 Van Horn, and that he is returning with revised engineering and architectural plans based on suggestion of the neighbors.

**Mr. Jameson Van Eck** of Wells, Jaworski & Liebman stated that he is appearing on behalf of John and Maureen Galdi, who reside at 16 Lenox Street which is immediately to the East of the subject property and neighboring along the rear property line where the variance is sought.

**Mr. Madaio, Board attorney** stated that **Mr. Abrahamsen** may continue with his opening statements and that witness's will be sworn in as they proceed.

**Ms. Hayden** stated the order of operations for the hearing. **Mr. Abrahamsen's** witness's will give their testimony, and **Mr. Van Eck** will have the opportunity to cross examine the witness's. The hearing will then be opened to the Board for questions and then sequentially opened to the public for questions.

**Mr. Abrahamsen, attorney** opened the meeting stating that he represents the application for 6 Van Horn, which originally was seeking one variance since it is on a corner lot. Previously he sought a ruling on the determination of the properties side yard and front yard. It was determined by the Board, that the lot is orientated toward Van Horn, which is the front yard. After taking into consideration the neighbors' comments, the revised plans reflect moving the house five feet, which in totality would be 15.1 feet from the rear lot property line. This revision resulted in a variance needed on the opposite side of the lot. A five-foot variance is being sought towards Van Horn (front yard). In conclusion this application is now seeking relief for both sides of the house. He reiterated that this is a long narrow lot, and that the new position of the house, will eliminate the need to remove large trees, a variance for a swimming pool in the side yard, and a proposed patio. He stated that the A/C mechanicals would also be moved to the side yard which has as length of 80 feet to the property line. He noted that this revision eliminates the need of clear-cutting major and minor trees. The landscaping plan has been enhanced, and the zoning requirements will be met for height of the dwelling. He discussed their willingness to cooperate with the Shade Tree Committee to meet their suggestions, ordinances, and requirements. He stated that the revised version would offer a pleasant aesthetic and a benefit to the neighborhood. He introduced his two witness's **Mr. Sean McClelland**, Engineer and **Mr. Uri Rappaport**, Architect, who will discuss the changes made, and the alterations to the landscaping plan in depth. **Mr. Abrahamsen** called **Mr. Sean McClelland** and **Mr. Uri Rappaport** to be sworn in by **Mr. Madaio**. **Mr. Madaio** asked **Mr. Abrahamsen** to confirm the Lot and block numbers for the record. His response: Block #4, x Lot #3. At this time **Mr. Sean McClelland**, licensed engineer in the State of New Jersey, and who has previously testified before this Board, was sworn in by **Mr. Madaio**. **Mr. Madaio** asked **Mr. McClelland** to state the date of the recent revision. **Mr. McClelland** stated the date as December 7, 2022. He stated that the home is situated at a 10.1-foot setback and that he moved the house 5 feet closer to Van Horn. He is now seeking two variances - one for the rear yard of 15.1 feet, where 30 feet is required, and a front yard variance on Van Horn for a five foot variance. He stated they were at 20 feet,

where 25 feet is required. Other changes include tree removal, and that three trees between the proposed dwelling and Lot 131 are to remain. Currently, they are proposing that eight trees are to be removed, whereas the previous tree removal was ~20 trees. He mentioned that two A/C units and a generator were previously located in the rear yard. And, that a step was added to the garage area, which is to lessen the slope of the driveway. Furthermore, the garage floor was revised to a slightly lower position.

**Mr. Abrahamsen** asked **Mr. McClelland** if the height complied with zoning requirements. **Mr. McClelland** replied that the height is 29 feet where 30 feet is allowed. He stated that the building, driveway and impervious coverage are under FAR limits. **Ms. Hayden** stated that there is a retaining wall remaining, and that a patio was added. **Mr. McClelland** stated one retaining wall was removed, and the other remains to taper down the driveway. **Ms. Hayden** stated that the remaining retaining wall is in the side yard and a variance is needed. **Mr. McClelland** stated there is a 3–4-foot difference between the garage floor and the existing driveway. **Mr. McClelland** stated that his preference is to always have the driveway slope from the driveway to the street. **Mr. Abrahamsen** added that this is a channel for drainage, and a positive pitch - so the water doesn't run off to the neighbor's property. **Ms. Hayden** asked about the deck on the revised plans and that they would need a variance for that as well, since it is an accessory structure in a side yard. **Mr. McClelland** stated that there is currently no drainage system on the property and that the current plan shows added leaders and a seepage pit that are an improvement. **Mr. McClelland** stated he was finished with his testimony and would be happy to answer any questions. **Ms. Hayden** asked **Mr. Van Eck** if he would like to cross examine the witness, **Mr. McClelland**. **Mr. Van Eck** asked if the size of the house has remained the same. **Mr. McClelland's**, response: Correct. **Mr. McClelland** stated that previously they designed a covered porch, and that now they are proposing a covered deck, that has been extended. **Mr. Van Eck** confirmed whether the house was moved five feet to the West. **Mr. McClelland** confirmed: Correct

**Mr. Van Eck** asked **Mr. McClelland** what the square footage or what the FAR total is. **Mr. McClelland** responded that the FAR that they are proposing is 3,458 sq. ft. **Mr. Van Eck** asked what the total footprint is. **Mr. McClelland** responded that the footprint is 1,650 sq. ft. and he stated that the existing footprint is 1,393 sq. ft. **Mr. Van Eck** stated that is almost double the existing footprint. **Mr. McClelland** agreed. **Mr. Van Eck** asked about the retaining wall by the driveway. Stating, "I assume the wall, the ground, the lower part of the ground of that wall is going to be on my client's side. Right?" "Towards the East?" **Mr. McClelland** stated: Correct. **Mr. Van Eck** asked if there was an inlet to capture runoff from the driveway. **Mr. McClelland** stated the drainage flows to the street.

At this time **Ms. Hayden** asked if there were any questions from the Board. **Mr. Park** to **Mr. McClelland** - Referring to the last meeting **Mr. Woods** raised the question concerning a window well in the rear that protrudes two feet. The solution of making these window wells flush to the rear wall was discussed prior. **Mr. McClelland** stated that the walls will remain the same. He stated that the window walls are now 11 1/2 feet from the property line. **Ms. Hayden** asked how much space is needed for egress

windows and if they must be a certain size. **Mr. McClelland** stated, that yes, they do need to be a certain size, and that **Mr. Rappaport** would address this topic. **Mr. McLain** asked a question regarding the seepage pit and the number of gallons it could accommodate. And he asked if he was missing another seepage pit on the plans. **Mr. McClelland** stated that the tank itself holds 1,290 gallons and then the gravel around the seepage pit holds the rest of the volume. He stated that each seepage pit itself holds 2,240-gallon capacity. **Mr. McLain** said the proposal seems out of character for the neighborhood. **Ms. Hayden** stated that the character of the neighborhood has changed quite a bit in the past 10 years, particularly on Lenox Avenue. The changes include four new construction projects. Smaller houses have been replaced with new construction. **Ms. Hayden** cited the plans footprint of 2,650 sq. ft. and stated that compared to most new construction today, that's relatively small. I think most construction is well over 3,000 square feet. **Mr. McClelland** stated that the dwelling itself is 2,526 sq. ft.

**Mr. Abrahamsen** stated that **Mr. Uri Rappaport** would be testifying at this time. **Mr. Rappaport** was sworn in by **Mr. Madaio**, Board attorney. He stated that both **Mr. McClelland** and **Mr. Rappaport** are both well recognized professionals in their field and have testified before the Board in the past.

**Mr. Van Eck**, stated that his client **Mr. John Galdi**, is present along with his expert **Mr. Doug Doolittle**, Engineer, and Planner, who will give testimony. **Mr. Doug Doolittle** was sworn in at this time by **Mr. Mark Madaio**, and asked if his license in both Planning and Engineering are in good standing. **Mr. Doolittle** responded that his licenses are current and that he has been an Engineer for over 40 years, dating back to 1984. **Mr. Madaio** accepted **Mr. Doolittle's** credentials as an expert in the field of engineering. **Mr. Van Eck** interjected that **Mr. Doolittle** is an expert in the field of Planning and would like to hear him in that respect. **Mr. Van Eck** further questioned **Mr. Doolittle** whether he had a license in the State of New Jersey, for planning and if the license is in good standing. He asked if his license has ever been suspended. **Mr. Doolittle's** answer was, No. **Mr. Doolittle** was asked if he has ever been accepted by other boards as a professional planner and an expert in planning. **Mr. Doolittle** responded: Yes. **Mr. Madaio** accepted **Mr. Doolittle** as an expert professional planner.

**Mr. Doolittle** stated that before he began his testimony, he wanted to clarify, that he has a survey of Mr. Galdi's house that was done in 2014. His overall length of the structure is 70 feet. He stated that every addition that was added to Mr. Galdi's house is conforming with today's code.

**Mr. Van Eck** asked if **Mr. Doolittle** has had a chance to review the plans, drawings, zoning ordinance, and the neighborhood. He further asked if he reviewed the Board Engineer's report on this project. And, if **Mr. Doolittle** agreed that a variance is required for this project. They both agreed. **Mr. Van Eck** stated that the overall length is 85 feet for the proposed house, and that if they are asking for a 15-foot variance, that, that is a

50% deviation. He referred to the deck extension on the North side being an additional seven feet, and that if some areas of the deck were eliminated on the North side, it would be 72 feet in length. **Mr. Doolittle** agreed. **Mr. Van Eck** referred to the upper floor, which is 54 feet, which does not include the entire length. Further stating that there isn't a stand-alone measurement of 54 feet. **Mr. Van Eck** and **Mr. Doolittle** agreed that the existing house is just about being doubled in length. In addition, there's an increase in height of about four feet. **Mr. Doolittle** referenced that although the height is conforming, the plan has 11-foot ceilings, on the second floor. And, that there is four to six feet of foundation and a flat roof which is why the 11 foot ceilings show more vertical wall instead of roof. He stated that the backside of the house would be visible for 55 feet. He asked if the architect could do anything to lower the structure, or soften the aesthetics on the outside facing Mr. Galdi's house. He stated that the structure is blocking visibility to the West. He described the wall as massive, starting at 85 feet working itself back down to 55 feet. **Mr. Van Eck** asked **Mr. Doolittle** if the elevation is 10 feet higher than Mr. Galdi's house, referencing a two-foot-high wall and then another three feet up to where the foundation is proposed to be. **Mr. Van Eck** asked **Mr. Doolittle** if there were any other dwellings in the neighborhood that are 85 feet in length. His response was: No. **Mr. Van Eck** asked **Mr. Doolittle** if this plan creates a substantial impairment to the intent and purpose of the zoning plan, and zoning ordinance. **Mr. Doolittle** stated there is negative criteria to the design since the property is right at an intersection. He stated that if the house were to be flipped and the driveway came in on the north side, it would serve two purposes. The first being, the necessity to back out of the driveway, this orientation would allow an on site turn around, and this change would keep all of the activity for the home on the driveway side. This would also eliminate the current inadequate walking space onto the property from the driveway, or the need to walk on a very narrow street. He further stated that this plan consists of an 85 foot wall that drastically reduces the light, air and open space for **Mr. Galdi**. He stated that they asked for them to move the house 15 feet in the prior meeting which is only the difference between the original 13 and a half to a 15 and a half difference. But they have done nothing to reduce the size or the aesthetics of the structure itself. Which creates a hardship for his client's property, to have wall built of that size, and windows overlooking into his backyard, bedroom and driveway. A discussion ensued regarding four large 50–60-year-old oak trees on the property. They were going to be removed on the original plan. Now they are sparing the trees, which locates them only 10 feet away from a new structure, which will compromise the root system during excavation. He suggested that these trees are either taken down or pruned back to a healthy standard, so they do not fall onto Mr. Galdi's property. This must be looked at from a safety standpoint, manicured and maintained professionally. One of the tree's is behind lot 126 to the North of Mr. Galdi's property. **Ms. Hayden** stated that there is a relatively new construction build on Lenox Avenue. There are four houses. One is at the corner of Knickerbocker and Lenox. She asked what he estimated the length of those houses are. She estimated they are probably 75 feet. He agreed with her approximation. At this time **Ms. Hayden** asked if there were any questions from the Board for **Mr. Doolittle**. **Mr. David McLain** referred to the length of the house and questioned

the width comparisons in the neighborhood. He explained that the width of the proposed plan is 33 feet, which is extremely narrow compared to comparable homes in the neighborhood. **Mr. McLain** referred to the pictures shown previously this evening. He stated that the existing property is 10 feet higher and sits behind a row of trees. Further, the covered porch and the porch itself is at ground level, from what he viewed in the pictures. He stated that the first floor level was barely visible, and asked if the full extent of the 85 feet would be visible. He questioned if the visible structure length is actually 72 feet. Particularly, since the front room is only a one-story room. He referred to page 3 , of the back wall, which appears to be 72 feet, and asked if the impact of visibility is actually 72 feet – including the living room extension and the covered porch. **Mr. Doolittle** stated that its still 16-17 feet above the first floor, so yes – it will be visible. **Mr. Van Eck** referred to the architectural plans of the back of the house. He pointed out the line of trees on the right side, which demarcated the end of his client’s property. He referred to the large oak tree for site and scale reference. He noted that the extension discussed previously appears to be a one and a half story structure rather than a one-story structure. Further that there is a roof line that extends out the full 85 feet. **Mr. Madaio** noted that if the house is moved 10 feet back, or 20 feet back – it doesn’t fundamentally change what faces **Mr. Doolittle’s** client. He stated that moving the structure is not the issue. The issue is the 54 feet incursion at the second level which intrudes the full 15 feet identifies the issue. **Mr. Madaio** stated that a variance will be needed along that property line. **Mr. Madaio** asked if there are any further questions for this witness, and **Ms. Hayden** asked if any members of the board have any further questions. A question was proposed if there is any substantial detriment to the public good with this proposal. It was stated that this is “over” building for the neighborhood. According to the architectural plans, there are bedrooms, accessory rooms, a master suite, a movie theatre, a bedroom in the basement, a dining room, living room and a family room. As well as a library, a gym, and a study. It was determined collectively that there are portions of the house that could be condensed, and perhaps even eliminate some of the features. A question was asked pertaining to moving the house 10 feet North, and if that would make an impact. Previously the answer was - If the structure was moved 30 feet to the North, would this open more airspace and light on the South side? **Mr. Doolittle’s** response: Yes. **Mr. Van Eck** stated that there is plenty of room to the North. That there is 80 feet between the edge of this building and the property line to the North. It was stated that the structure could probably be moved 60 feet to the North. **Ms. Hayden** stated that then, we would be discussing a whole new design, and the only thing we can decide on tonight is the plan that’s presented to us. We’re not going to approve anything that’s a whole new design in theory. **Mr. Van Eck** stated for the record that the applicant must prove their condition of hardship. They must prove the negative criteria. It’s the applicant’s burden. It’s not the objector’s burden to disprove it. There’s too much massing right against our property line when there is ample room to design this differently, that would minimize variances. **Ms. Hayden** stated that anything built on this lot would require at least two variances, front and rear variances and maybe more.

As there were no further questions from the Board, a motion was made to Open to the Public. A motion was made by Mr. Press and seconded by Mr. McLain. Motion to close to the Public by Mr. Press, seconded by Mr. Park.

**Open to the Public**

**Mr. Dennis McKinley:** 7 Woodland Road – Lot 126

**Mr. McKinley** stated that he doesn't see the relevance of moving the house towards his property, since **Mr. Galdi's** problem will become his on several issues. He agreed that there would be a nice side yard for people to enjoy, however, the structure is too big and too high. He expressed concern for the neighborhood, of which he has been a resident since 1973. He has witnessed the charm of the town diminish. His main concern is drainage and noted that having large trees will absorb the water, along with the seepage pits. He expressed concern that the height of the new structure will take away the sunlight for his pool. He thanked the Board for being thorough and fair, and is interested in following up on how this project will proceed. **Ms. Hayden** expressed that a lot of the new construction in town has removed a lot of trees and that it does greatly impact the aesthetics, however, this particular lot would benefit from implementing improvements.

Further conversation ensued between **Mr. Rappaport**, **Mr. Madaio**, and **Mr. Van Eck**, concerning eliminating a garage, moving the dwelling further from the property line and designing a dwelling that eliminates repetition of rooms that overlap in communal spaces. **Ms. Hayden** expressed that all these rooms are not necessary, and the design could be minimized. And given that the Board, and attorney's have given their summations, I would ask the Board if anyone would like to make a motion on the application. A motion was made by Mr. Woods that the application be rejected. I do not believe that the negative criteria were established here. I agree that the structure is overbuilt. I understand that it is a very difficult Lot, being long and narrow. And, that considerations could have been made to try to comply with the zoning laws of Demarest. I make a motion that we reject the application.

**Motion:** Mr. Woods

**Second:** Mr. Press

<b>ROLL CALL TO DENY:</b>	<b>Eligible to Vote*</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAIN</b>
Mr. Woods, Vice-Chair		X		
Mr. Davis				
Mr. Corrado				
Mr. McLain			X	
Mr. Park			X	
Mr. Press		X		
Ms. Hayden, Chairwoman		X		
Alternate #1 Mr. Adelman		X		

Alternate #2 TBC				
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**The Application is denied.**

In summation, **Ms. Hayden** stated that she is aware that the property is difficult, however, the plans could have been revised further to not intrude on the neighbors. .

**Ms. Hayden** asked the Board Members to stay to discuss new and old Business.

**Memorialization of Resolution to Approve  
Variance Application #820.21**

**Applicant Name:** Jason and Rachel Liberman  
Street address 605 Piermont Road  
Block # 76, Lot #4.02 & 4.03  
Zone B

**Relief sought:** Extension of variance expiration date for variances for building coverage (§175-16) and accessory structure and retaining wall height ((§175-19 (B)(6)(7)

**Motion by** Mr. McLain  
**Seconded by** Mr. Woods

*\*Only those Board members who voted to approve may vote to memorialize the resolution.*

<b>ROLL CALL TO APPROVE:</b>	<b>Eligible to Vote*</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAIN</b>
Mr. Woods, Vice-Chair		X		
Mr. Davis	No			
Mr. Corrado				
Mr. McLain		X		
Mr. Park		X		
Mr. Press		X		
Ms. Hayden, Chairwoman		X		
Alternate #1 Mr. Adelman	No			
Alternate #2 TBC				

**The Resolution was approved**

**Approval of November 15, 2022, Minutes**

*\*Only those present at prior months' meeting are eligible to vote*

**Motion:** Mr. Park  
**Second:** Mr. McLain

<b>ROLL CALL TO APPROVE:</b>	<b>Eligible to Vote*</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAIN</b>
Mr. Woods, Vice-Chair		X		

Mr. Davis	No			
Mr. Corrado				
Mr. McLain		X		
Mr. Park		X		
Mr. Press		X		
Ms. Hayden, Chairwoman		X		
Alternate #1 Mr. Adelman	No			
Alternate #2 TBC				

**The Minutes are approved**

**Motion to Close the Meeting:**

**Motion:**

**Second:** Mr. Adelman

*Meeting adjourned at 10:00 pm.*

***Next Meeting January 17, 2023, at 7:30 p.m. via Zoom conference***

Respectfully submitted,

*Teresa Ferrentino*

Teresa Ferrentino

Board Secretary